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If you find page references near the right hand margin of this standard they indicate the pagination of the official, printed version of this standard. For example, a notation "PAGE 2, 4/88, TS-87" would mean that (1) page two of the printed version begins here, (2) the date of issuance was 4/88, and (3) the Transmittal Sheet number was TS-87.

General Attorney Series

GS-0905

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SERIES DEFINITION

This series includes professional legal positions involved in preparing cases for trial and/or the trial of cases before a court or an administrative body or persons having quasi-judicial power; rendering legal advice and services with respect to questions, regulations, practices, or other matters falling within the purview of a Federal Government agency (this may include conducting investigations to obtain evidentiary data); preparing interpretive and administrative orders, rules, or regulations to give effect to the provisions of governing status or other requirements of law; drafting, negotiating, or examining contracts or other legal documents required by the agency's activities; drafting, preparing formal comments, or otherwise making substantive recommendations with respect to proposed legislation; editing and preparing for publication statutes enacted by Congress and opinions or decisions of a court, commission, or board; and drafting and reviewing decisions for consideration and adoption by agency officials. Includes also are positions, not covered by the Administrative Procedure Act, involved in hearing cases arising under contracts or under the regulations have the effect of law, and rendering decisions or making recommendations for disposition of such cases. The work of this series requires admission to the bar.

The following series and any standards published for these series are canceled and superseded by this standard:

- (1) Trial Attorney Series, GS-910-0
- (2) Attorney Trial-Examining Series, GS-940-0
- (3) Naturalization Examiner Series, GS-943-0
- (4) Judicial Series, GS-944-0
- (5) Legal Administration Series, GS-950-0
- (6) Attorney-Adviser Series, GS-970-0
- (7) Legislative Attorney Series, GS-975-0
- (8) Attorney-Editor Series, GS-980-0
- (9) General Attorney Series, GS-985-0
- (10) Trade-Mark Trial and Appeal Series, GS-1242-0

TITLES

Attorneys tend to specialize in two respects. They may specialize as to the function they perform and the subject-matter area in which they work.

Titles are provided below which apply to the various functional and subject-matter specializations. The title of an attorney position is constructed by using the appropriate functional designation such as "Attorney-Adviser," followed by the appropriate subject-matter designation such as "(Contract)" -- thus the complete title would be Attorney-Adviser (Contract).

There is one exception to the foregoing titling procedure which applies to positions classified in grade GS-9. At these lower grades specialization is usually relatively insignificant. The attorney is learning the procedures and policies of his organization. Not until he reaches the GS-11 level are his specialized knowledges and skills significant enough to be recognized in the title of his position. Accordingly, positions classified in GS-9 are titled "General Attorney" with no further designation.

Functional titles:

1. Trial Attorney for positions involved in the preparation for trial and/or the trial of cases, or for positions involved in providing technical guidance to persons preparing for or trying cases before a court or an administrative body or person having quasi-judicial power.
2. Attorney-Adviser for positions involved in rendering legal advice and services with respect to questions, regulations, practices, or other matters falling within the purview of a Federal Government agency (this may include conducting investigation to obtain evidentiary data and recommending an agency course of action); preparing interpretative and administrative orders, rules, or regulations to give effect to the provisions of governing statutes or other requirements of law; drafting, negotiating, or examining contracts or other legal documents required by the agency's activities; drafting, preparing formal comments, or otherwise making substantive recommendations with respect to proposed legislation; editing and preparing for publication statutes enacted by Congress and opinions or decisions of a court, commission, or board; drafting and reviewing decisions for consideration and adoption by agency officials.

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3. Attorney-Examiner for positions, not covered by the Administrative Procedure Act, involved in hearing cases arising under contracts or under the regulations of a Federal Government agency when such regulations have the effect of law, and rendering decisions or making recommendations for disposition of such cases.
4. General Attorney for positions involving two or more of the above functional areas or for positions, regardless of functional or subject-matter area of work, classifiable at GS-9.

Subject-matter titles:

1. (Admiralty). Maritime law and matters related thereto.
2. (Aeronautics). Law pertaining to the operation of aircraft and related matters.
3. (Antitrust). Pertaining to antitrust and kindred law and protection of the competitive enterprise system.
4. (Civil Rights). Pertaining to law employed to protect federally secured civil rights and liberties of persons. Also pertaining to law concerning the conduct of elections and to labor practices which have relationship to the civil rights of individuals.

5. (Contract). The preparation, negotiation, review, and advisory work pertaining to contracts, agreements, bonds, notes, and other legal instruments.
6. (Customs). Pertaining to customs law and related matters.
7. (Finance). Corporation finance matters dealing with securities, reorganizations, recapitalizations, mergers, and other related activities or municipal finance matters involving municipal securities, tax levies, mortgage financing, loans and guarantees to municipalities or local public agencies.
8. (General). For areas of law not covered by other subject-matter titles or when two or more areas of law are involved. ★ Where this designation would appropriately be used with the functional title General Attorney, the subject-matter title (General) may be omitted to avoid the awkward combination -- General Attorney (General). ★
9. (Immigration). Pertaining to law concerned with the admission of aliens to, and their status in, the United States, as well as their exclusion or deportation from the United States.
10. (Indian Matters). Pertaining to Indian tribal claims and related matters.
11. (International). Pertaining to law, agreements, treaties, conferences, and related matters of an international nature.
12. (Labor). Pertaining to Federal labor law and related matters.
13. (Mail). Pertaining to mail law involving mailability, fraud, claims, and other related matters.
14. (Military). Pertaining to military law and practice and to statutes and regulations concerning military personnel, including pay, allowances, appointments, promotions, separations, retirement, punishments, and other related matters.
15. (Nationality). Pertaining to law concerned with allegiance to a government and entitlement to protection from that government, and including such matters as repatriation, naturalization, and citizenship.
16. (Public Utilities). Pertaining to law and regulations concerning the Government as an owner, consumer, or regulator of public utilities.
17. (Real Property). Pertaining to title searches and other professional legal work in connection with all forms of real property (including natural resources) acquisition, use, or disposal.
18. (Tax). Pertaining to Federal tax law and related matters.
19. (Trade-Mark). Pertaining to the adjudication of trade-mark appeals.
20. (Trade Regulation). Pertaining to law prescribing unfair and deceptive acts and practices in interstate commerce, unfair methods of competition, and other monopolistic and trade restraining practices.
21. (Transportation). Pertaining to finance, rates, practices, operating rights, and other matters concerning motor, rail, water, or air carriers, freight forwarders, pipelines, or brokers of transportation.
22. (Veterans). Pertaining to law concerning veterans' rights and benefits and related matters.

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Two other parenthetical titles which may be used when the qualification requirements of a position are significant enough to require their use are: (1) (Legislation) and (2) (Editor).

These titles may be used in conjunction with any of the above subject-matter titles when necessary, e.g., (Tax-Legislation) or (Tax-Editor). The Legislation title is appropriate for positions which involve primarily the drafting of legislative bills and agency regulations.

EVALUATION PLAN FOR NONSUPERVISORY GENERAL ATTORNEY POSITIONS

There are a number of elements which together determine the difficulty and responsibility of attorney positions. These elements fall into two main categories (or factors): (1) nature of the case or legal problem and (2) level of responsibility. While there is some relationship between these two factors, each one is measured separately to recognize the fact that they do not necessarily appear in attorney positions in proportionate degrees. For example, an attorney may be involved in a high-level legal case or problem, but his degree of responsibility may be limited. Conversely an attorney may be involved in a relatively routine legal case or problem, but he may be operating with a high degree of responsibility. The level assigned to one factor together with the level assigned to the other factor will determine the grade of the position according to the conversion table at the end of the standard.

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* * *

- (1) *Nature of the case or legal problem.* This factor incorporates all those elements in a case or a problem which tend to make it more or less difficult to resolve satisfactorily. These elements measure the inherent difficulty of the legal and factual questions involved in a case or problem, as distinguished from the nature or extent of the individual's responsibilities for resolving the problem, the supervision he receives, extent of significant personal contacts, or any other performance element.

Among the elements are such things as the *complexity of legal and factual issues*. This element is obviously a key one, i.e., the more complex the legal or factual issues -- the more difficult the resolution of the case. A byproduct of a complex legal or factual issue is often the negotiation and preparation of a complex contract or other legal document.

The impact of the case or problem (in economic, social, or political terms) on the public, on relations with State or local governments, on national defense, on foreign relations, on private interests, or on agency authority, operations, procedures, or practices, is also an important consideration in evaluating the nature of the case or legal problem. When a legal matter materially affects any of the foregoing the consequences of the legal advice or decision may be far reaching and the damage which can be inflicted on the parties concerned or on the Government's prestige is often irreparable.

The importance of the case or legal action as legal or administrative precedent is very significant. In the vast area of administrative law, agency actions cumulatively reflect policies and trends. When a precedent-setting situation arises it can easily undo something which has taken years to attain. Often a relatively uncomplicated situation can become a test case of extreme importance to a Government agency or

non-Government interested groups. Precedent-making cases or actions make for responsible legal endeavor

whether or not large amounts of money or complex legal or factual issues are involved. To measure the significance of a precedent case or action it is necessary to consider it in relation to the significance of its consequences. Consideration of the precedent in terms of the element, *impact of the case or problem* (in economic, social, or political terms), is required.

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The nature of the competition encountered may be significant. Just as in an athletic event, the tougher the competition -- the tougher the contest. Usually, tough competition is an indication that something important is at stake -- whether it be money, a precedent in the making, or some other important consideration.

The nature and availability of precedent decisions is another important constituent of the factor, *nature of the case or legal problem*. If precedents are clear cut and plentiful, the attorney's job is ordinarily relatively simple. When precedents are few or conflicting, his job is more difficult.

Occasionally the *delicateness of the problem* becomes an all-important consideration in evaluating the nature of the case or legal problem. What might ordinarily be an uncomplicated legal or factual situation, with no foreseeable precedent-setting value, may develop into a very delicate matter which could possibly embarrass public officials or the Government in the eyes of officials of a foreign government.

Public interest in a particular legal matter has an effect on the nature of the case or legal problem as does the delicateness element. No matter how routine a situation may be, it becomes a difficult one to resolve when public interest is great.

Money is another element which may have a significant effect on certain legal cases or problems. The review, preparation, and negotiation of contracts and other legal documents, the conduct of hearings and trials, the giving of advice to administrators, the review and preparation of draft of legislation, and any other attorney endeavor will generally require special care and attention when a large amount of money is involved, unless the case or problem is otherwise routine (e.g., review of a standard form contract). Also, not all legal matters involve money nor can they be equated to money terms. Such matters are evaluated in light of other elements.

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* * *

These elements are not independent of one another. For example, the economic, political, or social impact of a case cannot be considered apart from its importance as a legal or administrative precedent. If a case is precedent setting, its impact in any of these terms is compounded. Likewise, a case that involves a considerable amount of money or materially affects a significant segment of private and public interests is apt to be strongly contested or negotiated by highly competent legal counsel. On the other hand, less emphasis ordinarily should be given to these elements of impact when the legal questions are clearly drawn and

covered by clearly applicable precedents. Therefore, the interrelationship of these elements must be considered in evaluating the nature of the case or legal problem.

* * *

Many (if not most) attorneys are engaged in the business of preventing litigation or other legal problems from developing, rather than resolving them once they have developed. In these situations, such elements as impact or public interest are not as apparent as they would have been had a problem arisen. However, positions involved in preventive legal work are credited similarly to those positions involved in resolving the problems, i.e., those elements of the nature of the case or legal problem which are not manifest, as a result of the preventive action, should be credited as they would have been if the situation had attained major proportions.

* * *

Unless the word "case" can be seen from the content to mean formal litigation, the words "case" and "legal problem" are used herein in their generic sense and encompass any legal assignment performed by an attorney whether it be of a formal or informal nature.

* * *

(2) *Level of responsibility* -- This factor incorporates all those elements which are indicative of the level at which an attorney carries out his assignment. The factor includes the functions performed, the supervision and guidance received, the personal work contacts, and the nature and scope of recommendations and decisions.

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The level of *functions* performed provides perspective to the level of responsibility factor. It reflects the maturity level of the attorney's endeavors in terms of what he does in connection with a case or legal problem. This element includes functions involved in trial, advisory, hearing, and legislative work. Each of these functions has parallel types of responsibilities, contacts, recommendations, and decisions depicted at the various intensity levels of this factor.

In some instances an attorney may lay the groundwork for presentation of the Government's case, but the actual trial is conducted by another attorney. In determining the level of trial work represented by the attorney who prepared the case, the extent of his participation is weighed. If he lays the complete groundwork for the Government's case, his position is credited as it would have been had he personally tried the case. In short, trying a case is not inherently more difficult than preparing the same case for trial or vice versa.

Many Justice Department attorneys (and attorneys in other agencies responsible for the conduct of litigation in Federal courts) are responsible for considering, among other things, whether a matter is of sufficient importance to warrant prosecution; whether there is adequate evidence; and whether prosecution is likely to affect adversely other cases which may have originated in different agencies and are pending decision by the courts. These are considerations which can be credited only to the Justice Department attorney positions and to attorney positions in other agencies responsible for the conduct of litigation in Federal courts.

Supervision and guidance received is another element necessary in evaluating the attorney's level of responsibility. With more or less supervision and guidance the attorney's responsibilities decrease or increase as the case may be. The attorney who is given a problem to resolve with no accompanying instructions obviously has a greater degree of responsibility than another attorney who is given a similar problem with detailed instruction as to what to do and how to do it.

The *personal work contacts* element is another reflector of the attorney's level of responsibility. Other things being equal, the more important his contacts -- the greater his responsibilities. For example, an attorney who presents his agency's view to a congressional committee has a greater degree of responsibility than an attorney who presents a similar explanation to his counterpart attorney in another agency. Many attorneys, however, while performing very difficult and important work, do not have need to contact persons other than their immediate associates. Positions of attorneys performing these noncontact functions are not to be penalized if they have the other characteristics of a particular level of responsibility.

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The *nature and scope of recommendations and decisions* is again an element which indicates the level of an attorney's responsibility. The more important and authoritative his recommendations and decisions -- the greater his degree of responsibility. An attorney rendering substantive advice on the terms of a contract has a greater degree of responsibility than an attorney reviewing the same contract for legal sufficiency and inclusiveness of the language.

* * *

Three levels of intensity are described for each of the two basic factors. With respect to factor 1, nature of the case or legal problem, the three levels describe what could be classed *simple*, *difficult*, and *most difficult* cases or legal problems. These levels are intended to cover the full range of cases or problems. If a case or problem does not satisfy the requirements indicated for the level of one of the types, it is identified with the next lower type because each type is described in terms of the minimum characteristics of the range of difficulty it represents.

The three ranges of difficulty or importance for nature of the case or legal problem represent the span of difficulty or importance of attorney work throughout the Federal Government. They are *not* intended to represent a span of difficulty or importance of attorney work found in every agency. Some agencies will not have cases or legal problems of the nature described in the third range.

With respect to factor 2, level of responsibility, the three levels cover what may be described as the *beginning*, the *intermediate*, and the *senior* attorney levels. The levels are labeled (A), (C), and (E), in recognition of the fact that there are positions that fall between these (described) levels. These intervening levels are represented by omitted letters (B) and (D). Unlike the levels described for nature of the case or legal problem, which are described in terms of minimum characteristics, these levels are described in terms of *typical*

characteristics. Accordingly, the intervening level (B) is appropriate when, for example, a position *compares with* level (A) in some respects and level (C) in others. The intervening level is also appropriate when a position *falls clearly between* two of the levels described with respect to the majority of elements. Unlike the type III level of factor 1, level E is not intended to be inclusive of the highest level of responsibility of nonsupervisory attorney positions.

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The grade of an attorney position is determined on the basis of the combination of the highest factor levels which are representative of the position to a significant extent. A grade-level conversion chart is provided showing how combinations of the two factors (*nature of the case or legal problem and level of responsibility*) convert to grade levels. The conversion chart includes the intervening levels (B) and (D), as well as the described levels (A), (C), and (E), for the *level of responsibility* factor.

THE EFFECT OF INDIVIDUAL STATURE IN THE PROFESSION

From time to time incumbents of professional legal positions are encountered who have achieved outstanding stature in their particular area of law (e.g., admiralty, labor, tax, and general law), so that their opinions are generally recognized by other attorneys as especially authoritative and are sought after and given special weight. Normally attorneys are not in a position to accomplish something of enduring significance until they have matured in the profession and progressed in the organization to a point where their actions have a significant influence on the agency's program. Accordingly, this factor, except in unusual circumstances, is applicable to GS-13 positions and above.

Individuals who have achieved this outstanding stature bring a plus element to the performance of the assigned duties of their positions, which cannot always be fully evaluated in terms of the criteria spelled out in the body of the standard. In such cases it is appropriate to identify the nature of this peculiar stature and to provide some credit for it in evaluating the position. This extra credit will not normally, in itself, be worth an additional "bonus" grade. However, in evaluating positions which meet the requirements of a level of responsibility with respect to some elements of evaluation and fall short with respect to other elements, this effect of the individual on the position should be recognized in evaluating it to the higher responsibility level, which in some cases will make a difference of one grade in the conversion to grade level.

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Stature in the legal profession is usually attained through accomplishments of enduring significance. For example, should an attorney write a treatise on a particular area of law related to his work, and subsequently become recognized by attorneys and management officials as an expert in this particular area, he has attained stature in his area of law. Also an attorney may become so well versed in his subject-matter field that he becomes the "oracle" in his organization on that subject. If the individual has brought something to the position which

cannot be replaced if he subsequently resigns, this too may be an indication of stature. The fact that management would not fill a given position upon the incumbent's resignation without first diluting the duties and responsibilities of the position is evidence that the current incumbent has outstanding stature.

An attorney may have brought attention to himself by having once pursued an extremely difficult legal problem to a successful conclusion. Subsequently, management has looked to him for the continued highly competent handling of matters which it considers of the utmost importance. Stature is attained this way also. Generally this situation is manifest by the assignment of more difficult duties and responsibilities to the individual. However, because of unusual workload situations the incumbent may on occasion be assigned cases or legal problems not of his traditional level of difficulty. This does not preclude the continued recognition of stature. Stature is not something that rises and falls with each project -- rather it is a cumulative attainment

Since stature is relative to the duties and responsibilities of the position, the breadth of the stature may be either local, regional, or national. The stature of an individual is an attainment for management officials to identify.

THE USE OF EXAMPLES TO ILLUSTRATE LEVELS

In the description of levels for the two factors, in some instances, illustrative examples of difficulty and responsibility are included. These examples are illustrative only and are not intended to be all inclusive. They are to be used only as guides in classifying attorney positions. In other words, the absence, from a given level, of a specific example, does not preclude the use of that level (if it is otherwise appropriate) in the evaluation of a position.

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VARIETY

Variety has not been used as a separate element in this standard, since many attorney positions are inherently varied. In smaller organizations particularly, attorney positions may encompass a range of subjects and activities. Accordingly, at the various degree levels of the standard, work examples are cited which are illustrative of positions involving variety.

1. NATURE OF CASES OR LEGAL PROBLEMS

Type I

Legal work of this type is characterized by the following features:

- (1) The legal question or factual situation can be relatively easily resolved in the light of the well-established or easily determinable facts and clearly applicable precedents involved.
- (2) The impact of cases or legal problems is local, or limited to the parties directly concerned (private individuals or a local industry) since legal or administrative

sanctions, fines, or penalties are relatively minor and involve no new precedents of wider potential impact.

- (3) Relatively limited sums of money are involved (e.g., a few thousand dollars). The cases have no widespread social or political impact. For example, where industry practices are involved no major effect on the industry can result from the decision. There is limited public interest in the case or legal problem.

Type II

Legal work of this type is characterized by one or more of the following features:

- (1) Difficult legal or factual questions are involved because of the absence of clearly applicable precedents due to the newness of the program or the novelty of the issue; or it is highly arguable which precedents are applicable to the case at issue because of the complexity of the facts or the different possible constructions which may be placed on either the facts or the laws and precedents involved.
- (2) The impact of the case or legal problem affects, economically, socially, or politically, either directly or as a legal or administrative precedent, a significant segment of private or public interests (e.g., a large corporation, a large labor group, the residents of a large geographical region of the United States as in a large public works project, a large grant-in-aid program, a nationally organized professional group, the producers of a given farm commodity, the manufacturers of a given product, a class of Government contractors, i.e., suppliers of a particular service or product, or an important program of a Government agency). Also included in this type are cases or legal problems which have an impact on relations between the United States and foreign governments (e.g., acts by servicemen or other representatives of the United States stationed abroad, questions such as whether or not to buy foreign or American products, or negotiating and drafting consular conventions) and which must be handled with great care.
- (3) Large sums of money are directly or indirectly involved (e.g., about one hundred thousand dollars), or there is considerable interest from a significant segment of the population (see paragraph 2 above), or the case is strongly contested in formal hearings or informal negotiations by the private individuals, corporations, or Government agencies involved.

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Type III

Legal work at this level is characterized by one or more of the following features:

- (1) Extremely complex and difficult legal questions or factual issues are involved in the drafting, interpretation, or application of legislation, regulations, contracts, orders, decisions, opinions, or other legal instruments and require for their solution a high order of original and creative legal endeavor in order to obtain a reasonable balance of conflicting interests (e.g., legal work involved with balancing the requirements of national security with individual liberties, determining the legality of State and local taxation of the use of Federal Government property by private

business firms, recommending or making policy concerning consent decrees in anti-trust litigation, or legal work involved in developing material for Executive orders concerning the use of Federal troops in a domestic emergency); or complex factual or policy issues are involved requiring extensive research, analysis, and obtaining and evaluating of expert testimony or information in controversial areas of scientific, financial, corporate, medical, engineering, or other highly technical areas.

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- (2) The case or problem is such that it can have the effect of substantially broadening or restricting the activities of an agency (e.g., the enforcement of antitrust and trade regulations, tax laws, food and drug laws, or the laws governing securities transactions); or it has an important impact on a major industry whose economic position affects the health and stability of the general economy (e.g., a merger or reorganization involving a basic industry, or on the rates, practices, or competitive position of a major industry, for example, the position of the railroads in relation to the motor carriers based on the "reasonableness" of their respective rates, or the position of domestic airlines operating overseas in relation to restrictions on foreign airlines operation in this country). It has an important impact on major private or public interests (e.g., a substantial broadening or restriction of benefits to veterans under the law, amounting to many millions of dollars annually, or a major extension or revision in a State and/or other grant program or a nationwide retirement system, the development of administrative regulations of such scope as the Armed Services Procurement Regulation, a substantial question of civil rights involving the due process clause, or a statement defining the legal rights of the Four Powers with respect to Berlin). Also included in this type are problems of unusual delicacy, such as fraud cases, because of the serious consequence of error and the great burden of proof assumed by the Government.

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- (3) Cases or problems of this type frequently involve, directly or indirectly, very large sums of money (e.g., about a million dollars) and/or they are frequently vigorously contested by extremely capable legal talent (e.g., a major antitrust case). Interest in these cases is generally nationwide.

2. LEVEL OF RESPONSIBILITY

Level A

Nature of functions

This level is characterized by functions, examples of which are listed below.

Searches case reports, legal documents, periodicals, and textbooks; and prepares tentative drafts of letters, memoranda, and legal documents for use by higher-grade attorneys in the preparation of opinions, legislative reports, briefs, contracts, and other papers or legal documents (i.e., particular points of law as decided in previous cases; background information and legal references as a basis for advising on management

plans and policies, compilation of legal issues and legislative history in connection with pending legislation).

Assists the attorney in charge of a court case or an administrative proceeding by interviewing and selecting appropriate witnesses, preparing them to give testimony, conducting direct examination, suggesting questions to be asked in cross-examination, cross-examining witnesses after the line of questioning has been settled, and drafting findings of fact, conclusions-of-law, and orders based upon the record.

Prepares cases for filing by drafting complaint, order to show cause, indictment, preliminary motions, and supporting affidavits and briefs.

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Prepares drafts of pleadings, motions, and interrogatories in connection with cases in litigation.

Conducts investigations of limited scope to obtain facts, studies legal precedents, and prepares recommendations for review of a supervisor.

Supervision and guidance received

Legal research is performed in accordance with preliminary instructions as to methods of approach, source material available, and policy and precedent of the office.

Participation in hearings is limited to examination or cross-examination where the line of questioning has been carefully laid down by the attorney in charge of the case and where the issues with respect to the points to which the particular witness is expected to testify are well defined and narrow in scope.

Completed written work is thoroughly reviewed usually by an attorney of higher grade who points out errors, omissions, and inadequacies, and corrects or directs the incumbent to correct them.

Personal work contacts

Personal work contacts constitute a relatively minor element at this level. The most important contacts are those involved in fact gathering. Contacts initiated by the incumbent are principally in obtaining information and/or legal references pertinent to the problem under study, and interviewing prospective witnesses, claimants, or other persons having knowledge of the facts involved in the problem or the case. As experience is gained, may advise agency personnel on minor matters or may participate in hearings or trials through examining witnesses along lines of inquiry laid down by an attorney of higher grade level.

Attendance at conferences with representatives of other agencies, industry, State and local governments, higher administrative officials, or congressional committees and their staffs is largely as an observer to gain experience.

Nature and scope of recommendations and decisions

The incumbents are responsible for the accuracy of factual information and legal citations, which are incorporated in the decisions, opinions, briefs, and other legal documents prepared by attorneys of higher grade level. Legal opinions, analyses, and conclusions ordinarily are not expected to be in finished form (except for relatively routine legal correspondence).

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Level C

Nature of functions

This level is characterized by functions, examples of which are listed below.

Conducting legal research in connection with:

- (1) Cases pending administrative hearings, trial before courts of original jurisdiction, or argument in appellate courts.
- (2) Legal questions referred by administrative officials of the employing agency, such as questions concerning the interpretation and application of statutes, rules, and regulations as they pertain to contracts, claims, or other legal instruments involving private business, State, local, national, or foreign matters.
- (3) Questions regarding the effects of provisions of proposed legislation or proposed changes in agency policies or regulations.

Where further development of facts is needed, refers question back to originating organization, to the operating organization affected by a proposal, or to the investigating arm of the employing agency, indicating the precise nature of information required. In criminal cases may recommend a grand jury investigation.

In some situations, personally conducts research or investigation of the facts as well as the laws, regulations, and legal precedents. Such research or investigation may involve any of the following:

- (1) Analyzing the factual and legal issues presented to determine what further facts are needed and what legal sources are applicable.
- (2) Reviewing policies, procedures, regulations, technical manuals, and other agency publications.
- (3) Studying industry and trade practices; policies, procedures, and operations of other Government agencies or of the States or local bodies; or business, technical,

- and professional publications and other authoritative sources of information required in the technical interpretation of factual issues.
- (4) Conducting research of laws, legal opinions, policies, regulations, legal texts, and precedent cases bearing on the legal issues involved in the problem, proposal, or case.
 - (5) Conducting pretrial examination of witnesses, or -- in the performance of advisory services or legislative review -- interviewing operating officials, industry spokesmen, and other interested persons to complete the background investigation. Page 18 10/59
 - (6) Preparing memoranda or reports outlining the facts and legal issues, analyzing the factual and legal issues involved, explaining the application of legal principles and precedents, and justifying recommendations or conclusions.

On the basis of the research or investigation, prepares necessary legal documents, advisory opinions for administrative personnel, drafts or comments on proposed legislation or changes in regulations, or recommendations on the advisability of instituting a civil or criminal suit, an administrative hearing, or other disposition.

When litigation is undertaken, prepares and/or presents, or provides technical guidance during, the prosecution of the Government's or the agency's case in an administrative hearing, before a court of original jurisdiction or appellate court. Prepares charges, show cause orders, complaints, briefs, motions, and other documents preparatory or incident to the trial of the case.

Participates in pretrial or prehearing conferences, examines and cross-examines witnesses, argues motions before the court or hearing officer, and summarizes the Government's or the agency's case.

When the activities of the agency require entering into contractual relations, negotiates (usually as a member of a team) with the representatives of private business or of State, local, or foreign governments, and drafts the necessary contracts and other legal documents.

Examines formal filings for legal sufficiency and full disclosure required to be made by statutes, rules, and regulations. Conducts or participates in conferences with legal counsel of registrant, or reviews opinions of counsel as to meeting filing requirements. Conducts any investigation and any subsequent administrative proceedings in connection with such matters.

Some of the functions enumerated above may be delegated to attorneys of lower grade level, who work under the guidance of the incumbent.

Also characteristic of this level are such duties as examining petitioners, claimants, and defendants against charges brought under the administrative regulations of an agency; and preparing reports, exhibits, and legal memoranda from the records and hearings, outlining the

factual and legal issues and the recommendation for disposition of the case for the consideration of quasi-judicial officers or bodies, or the courts.

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Acts regularly as the legal adviser on the plans and operations of a single program or activity, characterized usually as a distinct entity with separate, identifiable operations, authorized by law to accomplish a specific purpose (e.g., child health, school assistance in federally affected areas, interstate quarantine) but included in a group of related programs. May also serve as the assigned specialist on a single program or a major phase of several related programs or major activities.

Reviews for legal soundness and accuracy program material emanating from operating units of the organization.

In cases of sufficient scope and complexity to require the services of a staff of several attorneys or other specialists to present the Government's case or position, has responsibility for conducting a phase of the trial or other type legal problem under the guidance of the attorney in charge.

Supervision and guidance received

Incumbents of positions at this level of performance are expected independently to plan, organize, and conduct studies of the mill run of legal problems, cases, or legislative proposals encountered in their respective programs. They are apprised of any unusual circumstances surrounding the case or the problem, any background information which must be considered, and any important policy considerations that will govern development of the case or the solution.

Beyond this, they normally work independently in investigating the facts, searching legal precedents, defining the legal and factual issues, drafting the necessary legal documents, and developing conclusions and recommendations.

Completed work is normally assumed to be accurate with respect to legal citations, treatment of facts, and other aspects of technical treatment. However, all written work is subject to review for soundness of approach and argument, application of legal principles, and consistency with governing policies, procedures, and regulations of the employing agency.

Before a case is presented in an administrative hearing or before a court, the supervisor discusses the presentation, the line of approach, the possible lines of opposition to be encountered, and other aspects of the case to insure that proper groundwork has been laid for successful prosecution of the case.

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Personal work contacts

Generally, personal work contacts are an important characteristic of this level. Effectiveness is required in presentation, exposition, and argument in presenting cases to administrative hearings and to courts.

Attorneys participate in pretrial or prehearing conferences with industry representatives or private citizen claimants, defendants, or petitioners and their attorneys, explain points of law, charges, or qualifications of claimants, and refer suggested settlements or compromise offers to superiors with appropriate recommendations.

They advise negotiating officials in legal contractual matters by recommending appropriate clauses, provisions, and general wording.

Also characteristic of this level is participation in conferences with representatives of operating programs, State and local governments, industry, private organizations (e.g., veterans organizations, professional associations), or other Government agencies in developing or evaluating proposed changes in legislation or agency policies or regulations.

Incumbents participate in negotiations concerning conflicts in State and Federal regulations with State officials.

Incumbents assist the staffs of congressional committees in technical drafting of legislation.

Nature and scope of recommendations and decisions

Recommendations to those outside the agency or to administrative officials at higher levels are normally made through the supervisor.

Examples of recommendations characteristic of this level include:

- (1) Whether to initiate criminal or civil suits against alleged violators of Federal laws and regulations.
- (2) Settlement of claims against the Government brought by private citizens.
- (3) The organization, order of presentation, and line of argument to be used in the presentation of cases or hearings delegated to the incumbent as the trial attorney.
- (4) Settlement of suits brought by the government against others (e.g., offers in compromise in income tax cases).
- (5) Replies to requests for legal advice or interpretations of law arising out of the day-to-day operations of agency programs.
- (6) Substantive changes in legislation and agency policies or regulations to make them more equitable, responsive to needs, or easier to administer.
- (7) Whether to approve a contract or other legal document in its proposed form and content.

*Level E**Nature of functions*

This level is characterized by functions, examples of which are described below.

Reviews cases for agencies responsible for the conduct of litigation in Federal courts to determine whether to recommend prosecution. Considers the weight of the evidence, the importance of the case, the necessity of uniform application of the law throughout the land, the cost of litigation, and other considerations which bear on the advisability of instituting suit. Prepares a memorandum of fact and law and recommends whether prosecution should be undertaken. Generally, the memorandum is submitted directly to the individual responsible for authorizing formal legal action. If prosecution is authorized, initiates the filing of papers with the appropriate court, prepares and tries the case, or prepares the case for trial by another attorney. If the case is assigned to another attorney for trial, may advise and assist him. This assistance may extend to active participation in the presentation of the case, preparing witnesses, examining and cross-examining witnesses, and consulting with the trial attorney with respect to the line of argument.

Reviews, for agencies responsible for appellate litigation, records of suits for or against the Government in which the decision was unfavorable to the Government to determine whether to recommend appeal to a higher court. Considers the effect of the decision as a precedent if allowed to stand, the weight of the evidence, the need for consistent application of the law in all jurisdictions, the amount of money involved, the cost of litigation, and other considerations bearing on the advisability of appeal. If appeal is recommended, and the recommendation approved, may prepare and/or present the Government's case before the appellate court.

Drafts legislation or prepares complete reports on changes in basic legislation. Drafts or receives proposed legislation and refers to organizations having jurisdictions over programs which would be affected by the proposed changes in law. Evaluates the proposed legislation in terms of its foreseeable effect on agency programs, policies, procedures, regulations, methods of operation, and extent of operation, and on existing legislation. This evaluation is based on an analysis of the comments of operating organizations, the incumbent's own program knowledge, his awareness of the legal implications of the proposed legislation, and his knowledge of related legislation. Similar functions are performed with respect to the formulation and/or coordination of treaties or other international agreements or of rules, regulations, or policies applicable to major programs of the agency.

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At the highest level of drafting or reviewing proposed agency decisions, analyzes the records, including transcription of testimony and pleadings, evaluates facts, determines questions of law, and either recommends adoption of a decision prepared by another attorney or drafts his own decision for consideration and adoption by agency officials who

exercise final authority in such matters. This does not preclude the use of this level for positions at subordinate organizational echelons if, in fact, the drafting or reviewing of proposed agency decisions at such echelons is independently done, is directly submitted (with no further technical review) to agency officials who exercise final authority, and is given weight and effect equal to the recommendations of incumbents of positions at the highest agency level of drafting or review.

Acts as principal attorney in charge of the preparation and presentation of cases before administrative tribunals or before the trial or appellate courts, where the cases (a) are of such scope that they may, in many instances, warrant the assistance of one or more attorneys of lower grade or other specialists and (b) are of such importance that they frequently involve matching professional skills against some of the most distinguished and highly paid legal talent in the country. The principal attorney exercises full responsibility for the development and presentation of the case.

Acts as principal attorney in charge of recommending the policies and developing the procedures and regulations implementing new or amended legislation (e.g., new or revised grant-in-aid programs) for the employing agency. Is responsible for insuring that these policies, procedures, and regulations are consistent with the intent of the law and are administratively sound, efficient, and economical in operation. In developing the details of operations considers the needs, desires, and attitudes of administrators, State and local officials, industry representatives, the general public, or others who may be affected by the new or revised program.

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Acts as legal counsel to the head of a major operating program of the department or agency (e.g., a bureau, command, technical service, or regional office or field installation when the field installation has been delegated unusual authority or authority commonly of a higher echelon). Is responsible for advising on questions of law or administrative policy involved in the operations of the organization and in its contacts with industry, private and professional associations, State, local, or foreign government, or the general public. Advises on laws, regulations (including those who have the effect of law) of his own and other Federal agencies, opinions of the Comptroller General or the agency's general counsel, common law, administrative law, etc. Answers questions which are covered by interpretations of the Comptroller General or other legal authority. Is responsible for recognizing those questions which require an interpretation by such legal authority. Prepares recommended interpretation outlining the facts and the applicable law. Is responsible for developing the material which, in effect, becomes the agency's justification for the conduct of litigation on behalf of the agency by a litigating agency.

Sits as a quasi-judicial officer hearing cases involving claims against the Government, complaints, or requests for relief from the provisions of agency regulations which have the effect of law; conducting investigative hearings pursuant to statutory provisions to establish a formal written record; hearing charges brought by the Government against

violators of provisions of law or regulations; or hearing cases arising under the disputes clause of a government contract. Renders decisions on the points of law or constructions of fact in dispute and directs corrective action, payment of claim, or discretionary relief depending on the merits of the case and the penalties and permissible relief under law and regulations.

Supervision and guidance received

Attorneys at this level are expected to carry out any assignments within their area of responsibility without preliminary instruction. At the time an assignment is made the supervisor may discuss the significance of the problem and give any background information received. From this point, the incumbent independently conducts the investigation or negotiation, plans the approach, and develops the completed decision, report, brief, opinion, contract, or other product; or represents the Government at the conference, hearing, or trial. Where a hearing or trial is involved, the supervisor may be briefed on the overall approach to be taken and the line of argument to be pursued, especially where an important precedent effect is anticipated or there is widespread public interest in the outcome. Completed work in the advisory or legislative and regulatory areas is reviewed before it is signed out for consistency with agency policy, for possible precedent effect, and for overall effectiveness.

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Personal work contacts

This level is characterized by the most responsible personal contacts, examples of which include:

- (1) Conferring or negotiating with top administrative personnel in the agency, private business, or State, local, or foreign governments on important legal and policy questions.
- (2) Advising and assisting congressional committees and their staffs in drafting legislation or giving expert testimony before congressional hearings on legislative proposals.
- (3) Trying cases before courts or administrative bodies.

Nature and scope of recommendations and decisions

Recommendations characteristic of this level are similar to those characteristic of level (C). The major difference is that at this level advice on the interpretation of law or on proposed changes in legislation, policy, and regulations is often given directly to heads of programs, bureau chiefs, cabinet officers, congressmen, or representatives of State and local governments. In some instances recommendations are made through supervisors, as at level (C), but these recommendations are usually tantamount to final decision. This is

particularly pertinent to positions concerned with recommending whether to prosecute cases or to appeal adverse decisions in agencies responsible for litigation.

Incumbents are responsible for recognizing when the matter under discussion is of such precedent-setting nature or of such importance or delicacy that his advice must be cleared with superiors before it is given out.

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Attorneys at this level often deal with matters of such scope and complexity that they require the concentrated efforts of several attorneys or other specialists. In such circumstances attorneys at this level are normally responsible for directing, coordinating, and reviewing the work of the team.

GRADE-LEVEL CONVERSION CHART		
<i>Nature of Cases or Legal Problems</i>	<i>Level of Responsibility</i>	<i>Grade</i>
TYPE I	A	*
	B	9
	C	11
	D	12
TYPE II	A	9
	B	11
	C	12
	D	13
	E	14
TYPE III	A	11
	B	12
	C	13
	D	14
	E	15

*Assignments involving Type I cases or legal problems, and ★A★ level of responsibility, are not found in the Attorney profession. Where relatively clear-cut cases or problems are involved, the attorney who is assigned Type I cases typically operates at the B level of responsibility, or higher.

Persons who have graduated from law school but not yet passed the bar examination may be assigned clear-cut cases of Type I and work under close, step-by-step supervision as outlined in Level A. The grade of such positions would be GS-7. Such positions are classified in the Law Clerk Series, GS-904.

Position-classification standard for positions of Attorney (Estate Tax) in the Treasury Department, to be used in conjunction with, and as a supplement to, the General Attorney Series, GS-905.

COVERAGE

This standard provides grade-level criteria for nonsupervisory positions of Attorney (Estate Tax). These positions require professional legal knowledge of Federal, State, and local laws in work concerned with determining liability for Federal estate or gift taxes. The positions require admission to the bar.

Positions of Attorney (Estate Tax) also require familiarity with accounting principles and theory; a knowledge of business methods and practices; and an understanding of property valuation and investigative techniques.

NATURE OF ATTORNEY (ESTATE TAX) POSITIONS

The Federal estate tax is imposed upon the transfer of the property of a deceased person to his beneficiaries. The Attorney (Estate Tax) determines by reference to Federal, State and local laws, the types of property or property interests which are includable in the gross estate and the liability for Federal estate taxes.

Types of property includable in the estate may be divided generally into such categories as:

- (1) property owned by the deceased person;
- (2) transactions made in contemplation of death;
- (3) transfers of property with person retaining life estate;
- (4) transfers taking effect at death;
- (5) revocable transfers;
- (6) annuities;
- (7) joint interests;
- (8) powers of appointment;
- (9) proceeds of life insurance.

The taxable estate is determined by deducting from the value of the gross estate certain exemptions and deductions, such as:

- (1) expenses, indebtedness, and taxes;
- (2) losses;
- (3) transfers for public, charitable, and religious uses; and
- (4) bequests to surviving spouse.

A brief description of the type of work performed by the Attorney (Estate Tax) follows:

- (1) The attorney determines whether the necessary supporting data have been submitted with the return, determines the nature and extent of the audit to be made, and conducts the necessary field examination to assure that all property or interests of the deceased person and its value are disclosed and substantially correct. He may inquire into such sources of information as copies of the deceased person's income tax returns; inventory of the deceased person's safe deposit box; State inheritance tax proceedings; probate records for evidence that provisions of the will, mortgages, or other records are not contested; gift tax returns, cancelled checks or stub books of the deceased person's bank accounts; hospital and doctor's records; or official records of real estate sales for comparison with fair market values. In addition, he may seek opinions and information from real estate dealers, stock and bond brokers, appraisers, bankers, attorneys, accountants, and members of the deceased person's family to ascertain and substantiate the extent and value of the deceased person's property and interests.
- (2) The attorney analyzes all information and determines proper tax liability. This includes, when necessary, research into Federal, State and local laws and decisions of courts of various levels and jurisdictions. Such research is required to resolve any questions regarding what property is includable in the estate, the correct values of the deceased person's interests, and the proper and allowable deductions and credits; and
- (3) The attorney, in personal contacts with representative(s) of the estate, proposes changes resulting from the investigation and attempts to convince the representative of the estate of the correctness of his position by citing law, court decisions, precedent opinions, appraisals, etc. The attorney must be prepared to consider and evaluate the rebuttals of the estate representative(s), which are typically in the form of other precedents and court decisions, opinions of experts and appraisers, and the reasoning developed from these precedents and opinions.
- (4) If agreement is reached, the attorney submits the case for review. A final technical review is made by the review staff. If agreement is not reached, the representative of the estate is afforded a hearing at an informal conference with the supervisor or a senior attorney.

In the review of gift tax returns, the Attorney (Estate Tax) performs functions similar to those described above. The Federal gift tax is imposed upon the transfer of property by way of gift. The gift tax applies whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible. If the donor does not pay the tax when due, the receiver may be called upon to discharge the tax liability.

CLASSIFICATION FACTORS

The grade-level criteria involve consideration of the following factors: (1) Nature of the Work Assignment and (2) Level of Responsibility.

Nature of work assignment

This includes the scope and complexity of assignments; the level of difficulty of the problems or issues to be resolved; and the potential tax consequences.

Level of responsibility

This includes the supervision received, guidelines available and personal work contacts. This factor reflects distinctions between close supervisory control, specific guidelines, and limited personal contacts in some positions versus freedom from supervision, lack of guidelines or precedent decisions, and significant personal contacts in other positions.

EVALUATION NOTES

At GS-9 and above, each grade level contains a separate discussion and gives examples of the types and kinds of problems the examiner encounters. The gross value of estates is also mentioned as an indicator of difficulty at each level. (Note: Gross value in States with community property laws may involve consideration of the joint community interests, rather than the deceased person's interests only.) Gross value, however, should not be considered independently in the evaluation of estate tax examining positions. It has been included because experience has shown that significant differences in size and value of an estate may increase the complexity of the audit -- i.e., larger estates of high gross value potentially include more difficult problems which arise from the variety of assets and from deliberate attempts to avoid estate tax payments through complex legal or valuation devices.

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This standard does not include grade-level criteria for nonsupervisory positions above the GS-13 level. The absence of criteria, however, does not preclude the evaluation of an individual position to a GS-14 (or higher) level provided the nature of the assignment and the level of responsibility clearly exceed the GS-13 level in the standard, and warrant classification to a higher grade by reference to the criteria in the general standard for Attorney, GS-905.

QUALIFICATION REQUIREMENTS

Successful performance as an Attorney (Estate Tax) requires primarily a knowledge of, and ability to interpret and apply: (1) State and local laws in determining property or property

interests includable in a deceased person's estate; and (2) Federal laws and regulations in determining liability for Federal estate and gift taxes.

The Attorney (Estate Tax) must also possess: (1) knowledge of business, financial, and accounting methods, and property appraisal methods and techniques for the valuation of real and personal property, and other property interests of the deceased person; (2) ability to analyze numerous facts and allegations, and determine their acceptability and completeness; (3) ability to search for, locate, and develop information from a wide variety of sources; (4) ability to apply judgment and make decisions in determining liability for Federal estate and gift taxes; (5) skill in oral and written expression to report all significant findings; and (6) effectiveness in personal contacts.

The level of knowledge and ability required is not discussed separately at each grade level, but is included implicitly in the other factors. The degree of knowledge and ability required becomes increasingly greater at each higher grade level.

TITLES

The following titles are authorized:

ATTORNEY (ESTATE TAX)
SUPERVISORY ATTORNEY (ESTATE TAX)

Supervisory positions should be evaluated by reference to the General Schedule Supervisory Guide.

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Attorney (Estate Tax) GS-905-7

Nature of work assignments

GS-7 Attorneys (Estate Tax) typically receive formal classroom and on-the-job training in the examination of estate and gift tax returns to determine proper tax liability. They are assigned individual cases to provide training in a variety of legal, financial, and investigative problems encountered in the examination of estate and gift tax returns. They familiarize themselves with the examining process, and with applicable laws, regulations, decisions and rulings.

In a trainee capacity, the GS-7 Attorney (Estate Tax) conducts field investigations of returns which have been screened by the supervisor. Typically, selected returns investigated are characterized by: a limited number of issues or questionable situations of a simple and repetitive nature; an apparent absence of controversial aspects; tax deficiencies or overassessments in relatively small amounts; or low monetary value of the gross estate. Issues may be resolved in most cases by referring to clearly defined precedents or existing

statutes and regulations. On more difficult returns, the trainee receives even closer supervision.

Level of responsibility

The GS-7 Attorney (Estate Tax) works under the close guidance of the supervisor or an attorney of higher grade who makes assignments and provides detailed instructions concerning each phase and aspect of the examination. Guidelines usually deal explicitly with issues contained in assignments. The supervisor gives advice and guidance as needed on problems which arise during the examination. Completed work is thoroughly reviewed to determine progress and the need for any additional training or instruction on specific phases of the work.

Attorney (Estate Tax) GS-905-9

Nature of work assignments

GS-9 Attorney (Estate Tax) positions typically include:

- (1) *Work which is developmental in nature, with assignments becoming progressively more difficult.* -- In developmental positions, the GS-9 attorney conducts audits of an increasingly difficult and responsible nature in the examination of estate and gift tax returns. These returns are selected primarily for their value in providing experience and in developing knowledges, skills, and auditing techniques required for performance of the full range of estate tax examinations typical of the GS-11 level of difficulty. Positions differ from those at the GS-11 level in that the work typically is performed under close supervisory control.

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- (2) *Work which is continuing in nature with the assignments somewhat limited in scope and complexity.* -- In continuing-type positions, the GS-9 attorney conducts audits of estate and gift tax returns which have been screened by the supervisor. The returns differ from those assigned at the GS-11 level in that difficult features or problems are not expected to occur or to be handled independently; and tax potential is relatively limited. Returns examined ordinarily cover estates of the lower gross values. Some may be of higher value where no difficult issues are anticipated.

Assignments at the GS-9 level involve recurring legal and financial issues, limited in scope and complexity. These issues may be resolved by determining facts, and applying well-established laws, regulations, or precedent decisions to the circumstances at hand.

Legal issues relate to the decedent's ownership of or interest in property; to the includability of such property for tax purposes; and to the propriety of deductions claimed. In continuing GS-9 positions the issues normally are not clouded by complexities found at higher grade

levels, such as questionable powers of appointment, uncertainty of property interests passing to surviving spouse, or transfers in contemplation of death.

Financial issues relate to the valuation of residential and personal property, stocks, bonds, or other securities, or small private businesses, where the fair market value can be determined by the use of tables and formulas, by comparison with similar property, or by examination of business records. For example, the valuation of residential property can be made adequately through use of realtors' opinions, or clearly appropriate comparable sales. The attorney applies judgment in determining depreciation and in making comparisons since parcels of real estate are not likely to be identical. Valuation problems differ from those at higher levels in that the GS-9 attorney is not expected to conduct special appraisal studies, to make extensive comparisons with complex business enterprises, or to apply special business or accounting knowledges in determining the fair market value.

Level of responsibility

Work is performed under the supervision of the group supervisor or a higher-graded attorney who makes assignments, gives specific instructions on new issues, and points out potential problem areas and possible solutions. Recommendations and decisions are based upon facts, laws, and precedents which are reasonably direct and explicit in supporting the conclusions reached. For returns involving less complex issues and relatively small tax potential or change, the attorney is responsible for a complete audit. The supervisor is available to provide instructions and assistance if difficult problems arise. Work is reviewed for completeness, effectiveness, and accuracy.

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Supervisory assistance on developmental assignments initially is more frequent and in greater detail, including on-the-job observation and guidance. Assistance on individual cases is gradually diminished as the attorney gains competence in completing assignments. The work and reports are reviewed closely in order to check on progress and improvement in the acquisition of knowledge and development of auditing techniques, as well as for completeness of examination and report, accuracy of legal citations, judgment used in developing facts, correct valuations of property, and computation of tax.

Personal contacts are primarily with representatives of the estate for the purpose of obtaining information and explaining the basis for proposed changes in tax assessments in terms of the facts involved and the applicable laws, regulations, decisions, and rulings. Also involved are numerous contacts with third parties, such as realtors, bankers, lawyers, accountants, public officials, physicians, hospital authorities, or members of the decedent's family, for the purpose of securing necessary information and evidence.

Attorney (Estate Tax) GS-905-11

Nature of work assignments

GS-11 Attorneys (Estate Tax) typically perform independent examinations of a wide range of estate and gift tax returns. These returns involve legal, financial, investigative, or other problems of substantial variety and complexity. Tax potential may be significant. Returns examined ordinarily cover estates ranging from low to median gross value; or, in some cases, the estates may be larger where problems encountered are no more complex than is characteristic of the GS-11 level of difficulty. Returns assigned at the GS-11 level typically may be resolved by the use of experienced judgment in selecting and applying established laws, regulations, and precedents, and accepted methods and procedures. By contrast, returns examined at the GS-9 level include those which are limited in scope or complexity, or are assigned for developmental purposes.

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Assignments at the GS-11 level involve a wide range of legal and financial issues which are likely to arise in the audit of estate and gift tax returns. These issues can ordinarily be resolved by referring to laws, regulations, and precedent decisions which are directly applicable or require little interpretation. Typical legal issues involve:

- (1) decedent's ownership or interest in property, including duration of interest;
- (2) all types of property transfers during the decedent's lifetime, such as those with retained life estate taking effect at or in contemplation of death;
- (3) propriety of deductions claimed, including deduction for expenses, indebtedness and taxes; for losses; for public, charitable, and religious bequests, or for property interests passing to surviving spouse; or
- (4) questionable powers of appointment.

Financial issues include the valuation of different types of property, including income-producing real estate, large holding of closely held stock, and private businesses. Valuation issues at the GS-11 level can usually be resolved by using recognized appraisal and accounting techniques and by applying current and historical knowledge of varied business, commercial, and industrial enterprises. For example:

- (1) valuation of conventional residential and income-producing types of real estate or other personal effects requires gathering opinions of value, using sales comparison methods, and using occasionally capitalization of income methods;
- (2) valuation of closely held stock in corporations which are organized as a single entity, or which do not involve unusual activities, is accomplished by analyzing balance sheets and profit and loss statements in order to arrive at the true net worth.

Level of responsibility

Work is performed under the supervision of the group supervisor who assigns cases, issues general instructions, and points out unusual circumstances surrounding the case, or any background information which must be considered. The attorney is expected to plan, organize, and conduct his examination independently with respect to investigating facts, searching precedents, defining the issues, and developing conclusions and recommendations. The supervisor is available for advice or discussion on unusual problems which arise during the conduct of the examination.

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Guidelines are numerous and typically require a substantial amount of research to fit the specific circumstances or cases at hand. Conclusions reached and recommendations made are expected to be thorough and the examination complete with respect to all conventional aspects of the assignment. Completed work is reviewed for adequacy, soundness of judgment, and consistency with regulations.

Personal contacts are made with a variety of individuals, similar to those discussed at GS-9, for the purpose of securing information and evidence. The GS-11 attorney is responsible not only for explaining the basis for any proposed changes in tax liability, but also for conducting conferences and considering and, where appropriate, rebutting the contentions of estate representatives on a wide variety of issues.

Attorney (Estate Tax) GS-905-12

Nature of work assignments

GS-12 Attorneys (Estate Tax) are assigned the independent examination of estate and gift tax returns which potentially contain one or several major issues, as well as numerous other problems of conventional difficulty. Major issues relate to unusually difficult or potentially complex legal, financial, investigative or other problems, and typically involve substantial tax considerations. Returns examined usually cover estates of high gross value, but may also include larger or smaller estates when more complex problems of the GS-12 level are present. Returns require extensive investigations to resolve highly controversial matters for which clear precedents do not exist. Potential tax deficiencies normally are contested by estate representatives who are specialists in the probate and tax fields, or by competent appraisers and accountants.

By contrast, major issues of unusual difficulty are not anticipated in the returns assigned to GS-11 attorneys. If encountered at the GS-11 level, the supervisor normally participates in the examination or provides closer guidance or control in resolving the unusually difficult issues.

GS-12 assignments are characteristically complex, involving legal issues frequently mingled with related factual, financial, or accounting issues. Issues assume major proportions, for example, when a substantial tax deficiency requires:

- (1) interpretation of legal documents which are vague or ambiguous;
- (2) extensive investigation to ascertain the facts and circumstances;
- (3) application of legal precedents which are highly arguable due to the complexity of the facts and to the different possible interpretations which may be placed on them; or
- (4) detailed research of legal questions, including consideration of judicial decisions and legislative intent in cases involving adaptation of precedents of similar but not identical issues.

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To illustrate: A major issue may arise when the attorney must ascertain the dominant motive of the deceased person in determining whether property transfers of a material part of a large and complex estate, held in trust for the benefit of another person, are includable in the gross estate. This determination involves such questions as whether from the terms of the trust or the circumstances and dealings of the parties concerned there has been an actual or implied retention of income or use of the property; the transfer was intended to take effect at or after death; or the transfer was subject to the deceased person's death to the exercise of a power to alter, amend, revoke, or terminate.

Other issues in GS-12 assignments include unusually difficult valuation problems. These are typically encountered in the valuation of business interests of substantial size, large commercial properties, and other property of an unusual nature. Issues assume major proportions, for example, when the determination of the value of such property requires:

- (1) intensive analysis of substantial business operations;
- (2) gathering and analyzing engineering appraisals or other expert opinions and selecting the most appropriate valuation from among different points of view; or
- (3) application of extensive working knowledges of financial, business, or accounting operations including a variety of intangible factors not covered by recognized valuation methods or by data that are comparable.

To illustrate: A major issue may arise in the valuation of unusual property such as docks and waterfront property; sizable mortgages which are disputed in whole or in part; substantial patent rights; large holdings of antiques, jewelry, or works of art; and extensive holdings of stock involving allowances. Unusually difficult problems arise in the valuation of such properties, for example, when comparative sales data are limited or nonexistent; when there are no established investment markets for such properties; or when normal profit and operating cost figures are inapplicable.

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Level of responsibility

Work is performed under the general supervision of the group supervisor who assigns returns with few or no instructions. The supervisor is available for advice and discussion of unusual problems. Guidelines are similar to those at lower levels. For major problems, however, precedents are seldom directly applicable due to the complexity of the facts and to the

different possible interpretations which may be placed on them. Novel or controversial legal issues may call for the attorney to determine that the matter can only be resolved by securing an opinion or legal interpretation from the appropriate supervisory level or staff.

Conclusions reached and determinations made are expected to extend through all aspects of the examination, including the nature and extent of the audit to be made, issues to be developed, and sources of information to be consulted, as well as the determination of tax liability. Recommendations are expected to be in final form and to be made only after negotiations with representatives of the estate are completed, generally resulting in their agreement to tax deficiencies.

In addition to personal contacts with third parties for the purpose of securing information and evidence, as discussed at the GS-11 level, contacts are also made with estate representatives, most of whom are specialists in the probate and tax field, professional accountants, or engineering appraisers. Problems of explanation and persuasion involve difficult and complex questions of law and valuation, especially in the area of judgment characterized by legitimate doubt as to the proper application of precedents or the correct basis of valuation.

Attorney (Estate Tax) GS-905-13

Nature of work assignments

GS-13 Attorney (Estate Tax) positions exceed the requirements specified at GS-12 in that the examination of estate and gift tax returns typically includes:

- (1) a considerable number of major issues of an unusually difficult nature; or
- (2) novel issues which are likely to set important precedents within the field of tax administration; or
- (3) highly complex problems in the valuation of extremely large holdings and closely held corporations.

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Normally, the total gross value of estates is exceptionally high. Proposals for findings of sizable tax deficiencies are strongly contested by well-recognized and highly competent attorneys, accountants, and technical specialists in estate planning, engineering, and business appraisal.

The examination of returns requires extensive specialized knowledges related to all aspects of estate and gift taxation; high investigative ability to uncover deliberate attempts to exclude unusually large interests from the estate through well-planned and complex legal or valuation devices and entanglements; a high degree of originality in the development of legal and valuation rationale on issues where there are no suitable precedents; and outstanding ability to present and maintain the Government's position successfully.

Assignments at the GS-13 level include some of the most controversial legal issues found in the area of real property, trusts, and estates. They involve points of law that are without precedent or that are the subject of conflicting precedents. Major issues call for (a) extensive legal research to locate cases of sufficient similarity; and (b) sound judgment on the part of the attorney in determining when the case requires a legal opinion, interpretation, or other guidance from the technical staff.

Such issues arise --

- (1) When an exceptionally large tax deficiency is based upon the interpretation of a wide variety of complex and lengthy legal documents, and the meaning or intent of the maker of the documents is vague and obscure;
- (2) when determinations are rendered difficult by reason of conflicting legal precedents, such as those arising from court decisions in different jurisdictions;
- (3) when a tax decision will set a precedent for numerous other cases, and the determination of the action to be taken must be based upon rationale developed from various sources in common law and court decisions which are not directly related; or
- (4) when there is a need to evaluate the potential effect of precedent-setting decisions on the outcome of the case under consideration and on other related cases.

Financial issues in GS-13 assignments involve the valuation of closely held or infrequently traded securities of closely-held corporations with (a) numerous subsidiaries, or (b) a number of related companies with interlocking directorships. Such companies are extremely large, including household corporate names, giants of the industrial or commercial fields, or locally prominent businesses with gross sales ranging to hundreds of millions of dollars.

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Valuation problems include hidden factors and intangibles which render the earning capacity unreliable as an indicator of fair market value. For example: broad business, accounting, and financial knowledges are required to prepare reconciliations of surplus together with balance sheets and profit and loss statements; to make comparisons of these statements over a period of years to determine specific trends in the business being valued; to project such trends into the future as affecting the total valuation; and to recognize and define the effect of abnormalities in specific years.

The GS-13 attorney also determines the fair market value of any and all types of real estate. He determines the value of the entire gamut of tangible and intangible property, based on personal knowledge and consultation with qualified specialists. Included in this category, for example, are mining interests or oil interests, where engineering aspects must be valued by a qualified engineer, but where the responsibility for sustaining such valuations in the face of competent opposing contentions rests with the attorney.

Level of responsibility

The level of responsibility exceeds GS-12 primarily in the increased difficulty of the returns examined, the novel legal issues encountered, and the negotiating ability required.

For example, greater judgment is required (a) in recognizing potential legal issues involved in extremely large holdings, and (b) in determining the scope of investigations which must be undertaken to uncover deliberate attempts to exclude unusually large interests from the estate. Conclusions reached often result in agreement to very large tax deficiencies or in setting the basis for the Government's position in future court action. Impact of decisions may be far-reaching in establishing significant precedents in the field of estate taxation. Recommendations are usually accepted as submitted.

Personal contacts differ from those described at lower levels in that the estate representatives contacted are almost invariably among the best legal, valuation, and probate talent available. Frequently, there are no applicable precedents for the issues involved, or there are conflicting legal precedents. Thus, explanation and persuasion in negotiating controversial issues require a high order of knowledge, confidence, and experience of the attorney in maintaining the Government's position.